



**THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA**

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 30 November
STATUS Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

***Justice Alliance of SA & another v The National Minister of Safety and Security & others
(646/2011) [2012] ZASCA 190 (30 November 2012)***

Media Statement

Today the Supreme Court of Appeal (SCA) dismissed an appeal by two non-profit voluntary associations, the Justice Alliance of South Africa and the False Bay Gun Club against a judgment of the Western Cape High Court that guidelines published by the Minister of Safety and Security, which provided that gun owners who voluntarily surrendered their firearms that were not retained by the State are not entitled to compensation, are not *ultra vires* section 137 of the Firearms Control Act 60 of 2000. The appellants acting in the interests of firearm owners nationwide, approached the high court for declaratory relief against the Minister, the National Commissioner of the South African Police Services, in his capacity as the Registrar of Firearms.

The Firearms Control Act, which came into force on 1 July 2004, repealed and replaced the Arms and Ammunitions Act 75 of 1969 (the old Act). It, like its predecessor, regulates the possession of firearms. In doing so, it recognises, as recorded in its preamble, the store that our Constitution places on the right of every person to life and security, as also, that the increased availability and abuse of firearms has contributed significantly to the high levels of crime in our society. The purpose of the new

Act is to prevent the proliferation of illegally possessed firearms and to improve the control of legally possessed firearms.

The SCA held that the argument advanced on behalf of the appellants cannot be reconciled with the explicit provisions of the Act, in particular section 136(3), which states that no compensation is payable when a firearm is surrendered and destroyed. Moreover, according to the SCA, the general scheme of the Act is to provide compensation only when a firearm is retained by the State. The Act does recognize that when the State retains a firearm, which is deemed to be of special value, that value accrues to the State for which the former owner should be compensated. It follows, the SCA concluded, that in publishing guidelines that excluded persons who voluntarily surrendered their firearms (and whose firearms were not retained by the State) from the compensatory scheme, the Minister did not act *ultra vires* the provisions of the Act.

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